

Roach of Hunt	Settle
Roberts	Spears
Russell	Stanfield
Rutta	Steward
Scarborough	Westfall
Sessions	Young

Absent

Atchison	Herzik
Beck	Hoskins
Butler of Karnes	Hunt
Celaya	Jones of Atascosa
Colson	Knetsch
Dunagan	Leonard
Dunlap of Kleberg	McKee
Duvall	Payne
Dwyer	Petsch
Graves	Rogers

Absent—Excused

Ash	Lotief
Fitzwater	

Question then recurring on the motion by Mr. Harris of Dallas, it prevailed, and the House, accordingly, at 5:10 o'clock p. m., adjourned until 10:00 o'clock a. m., tomorrow.

APPENDIX

STANDING COMMITTEE REPORTS

The following committees have filed favorable reports on bills as follows:

Liquor Traffic: House Bills Nos. 1, 3 and 14.

Revenue and Taxation: House Bills Nos. 5, 35, 44, 47, 52, 53, 56, 58 and 70.

State Affairs: House Bill No. 42, House Concurrent Resolutions, Nos. 4 and 5.

The Committee on State Affairs filed adverse reports on bills and resolutions as follows: House Bills Nos. 7, 16, 17, 32, 59, 66, 77, 79 and Senate Concurrent Resolution No. 1.

The Committee on Revenue and Taxation filed an adverse report with a minority favorable report on House Bill No. 39.

REPORT OF THE COMMITTEE ON ENGROSSED BILLS

Committee Room,
Austin, Texas, September 25, 1935.
Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills to whom was referred

H. B. No. 36, A bill to be entitled "An Act to permit the Bradfish Grain Company and the member or members composing the same to sue the State of Texas and the State Highway Department of Texas, for damages alleged to have been done and to have accrued to the property of said company, which is used for conducting a grain business in the City of Weatherford, said property being used in conducting a feed and grain business and located on the North side and adjoining Fort Worth Street and State Highway No. One (1); etc., and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

HODGES, Chairman.

TENTH DAY

(Friday, September 27, 1935)

The House met at 10:00 o'clock a. m., pursuant to adjournment, and was called to order by Speaker Stevenson.

The roll was called, and the following Members were present:

Mr. Speaker	Colson
Adamson	Cooper
Adkins	Cowley
Aikin	Craddock
Alexander	Crossley
Alsup	Daniel
Atchison	Davis
Bergman	Davison of Fisher
Bradbury	Davisson
Bradford	of Eastland
Broyles	Dickison
Burton	Dunagan
Butler of Brazos	Dunlap of Hays
Butler of Karnes	Dunlap of Kleberg
Cagle	Duvall
Caldwell	Dwyer
Calvert	England
Canon	Fain
Celaya	Farmer
Clavton	Fisher
Collins	Ford
Colquitt	Fox

Frazer	Moffett
Fuchs	Moore
Gibson	Morris
Glass	Morrison
Good	Morse
Graves	Newton
Gray	Nicholson
Greathouse	Olsen
Hankamer	Padgett
Hanna	Palmer
Hardin	Patterson
Harris of Archer	Payne
Harris of Dallas	Petsch
Hartzog	Pope
Head	Quinn
Herzik	Reader
Hill	Reed of Bowie
Hodges	Reed of Dallas
Hofheinz	Riddle
Holland	Roach of Angelina
Hoskins	Roach of Hunt
Howard	Roane
Huddleston	Roark
Hunt	Roberts
Hunter	Rogers
Hyder	Russell
Jackson	Rutta
James	Scarborough
Jefferson	Sessions
Jones of Atascosa	Settle
Jones of Falls	Shofner
Jones of Shelby	Smith
Jones of Wise	Stanfield
Keefe	Steward
King	Stinson
Knetsch	Stovall
Lange	Tarwater
Lanning	Tennyson
Latham	Thornton
Leath	Tillery
Lemens	Venable
Leonard	Waggoner
Lindsey	Walker
Lucas	Wells
Luker	Westfall
Mauritz	Wood of Harrison
McCalla	Wood of Montague
McConnell	Worley
McFarland	Young
McKee	Youngblood
McKinney	

Absent—Excused

Ash	Fitzwater
Beck	Lotief
Bourne	Spears

A quorum was announced present.

Rev. George W. Coltrin, Chaplain, offered the following invocation:

"Our Heavenly Father, in these stressful days when we are prone to forget Thee, we pray that Thou wilt not forsake us. We believe that Thou

hast graciously led us hitherto, and we look unto Thee for wisdom and guidance. In Christ's name. Amen."

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence on account of important business:

Mr. Spears for today, on motion of Mr. Jones of Atascosa.

Mr. Bourne for today, on motion of Mr. Walker.

Mr. Ash for today, on motion of Mr. Jones of Falls.

Mr. Beck for today, on motion of Mr. Morrison.

The following member was granted leave of absence on account of illness:

Mr. Lotief for today, on account of illness in his family, on motion of Mr. Bradbury.

HOUSE BILLS ON FIRST READING

The following House bills, introduced today, were laid before the House, read severally first time, and referred to the appropriate committees, as follows:

By Mr. Duvall and Mr. Smith:

H. B. No. 90, A bill to be entitled "An Act to raise revenue by licensing of public eating places; providing for the collection of said tax; providing for the administration of this Act; providing certain sanitary regulations; authorizing the inspection of eating places; providing for the disposition or funds collected under this Act; defining said words and phrases; and providing for a penalty for the violation of the provisions of this Act, and declaring an emergency."

Referred to the Committee on Revenue and Taxation.

By Mr. Fisher:

H. B. No. 91, A bill to be entitled "An Act granting W. E. Bush of San Angelo, Tom Green County, Texas, permission to bring suit against the State of Texas and the State Highway Department of Texas for damages for personal injuries on account of the negligence of an employee of the State Highway Department, while W. E. Bush was employed on construction work on State Highway No. 70; etc., and declaring an emergency."

Referred to the Committee on State Affairs.

By Mr. Worley:

H. B. No. 92, A bill to be entitled "An Act relating to the discontinuance of gas or electric service in homes where serious illness exists; providing conditions which must exist before the provisions of this Act are applicable; stipulating those eligible to receive the benefits of this Act; making a provision for future customers of gas and/or electrical service; and declaring an emergency."

Referred to the Committee on Public Health.

By Mr. Morris, Mr. England, Mr. Graves, Mr. Hodges, Mr. Latham, Mr. Thornton and Mr. Steward:

H. B. No. 93, A bill to be entitled "An Act amending Article 802, Penal Code of Texas, 1925, and declaring an emergency."

Referred to the Committee on Criminal Jurisprudence.

By Mr. McConnell:

H. B. No. 94, A bill to be entitled "An Act to establish Texas intoxicating liquor laws, define the terms relating to the same, to regulate the dispensation and sale thereof, to provide for a license to manufacture and wholesale the same, to provide for local option election in certain cases, to determine whether or not the manufacture and sale of intoxicating liquor shall be permitted in the territory covered by such local option election of intoxicating liquor, providing for the creation of a State Dispensary System and defining what shall be lawful and unlawful in the handling of intoxicating liquors and prescribing a penalty therefor, and declaring an emergency."

Referred to the Committee on Liquor Traffic.

By Mr. Cagle:

H. B. No. 95, A bill to be entitled "An Act to amend Article 2968 of the 1925 Civil Statutes of Texas, as amended by the First Called Session of the Forty-first Legislature, providing that the exemption certificates for the poll tax shall be secured before the first day of February, and declaring an emergency."

Referred to the Committee on Privileges, Suffrage and Elections.

By Mr. Hill, Mr. Bradford, Mr. Collins, Mr. Payne, Mr. Lindsey and Mr. Pope:

H. B. No. 96, A bill to be entitled "An Act to amend Section 1 of Chapter 117, being H. B. No. 847, passed by the Forty-second Legislature of the State of Texas, as appears from page 229 of the Special Laws of said Forty-second Legislature, so as to make the provisions for repurchase applicable and effective as herein provided; and declaring an emergency."

Referred to the Committee on Public Lands and Buildings.

EXPRESSING APPRECIATION TO THE MEMBERS OF THE HOUSE

On motion of Mr. Roane, the following communication was ordered printed in the Journal:

THE DALLAS MORNING NEWS

The Dallas (Eve.) Journal
The Semi-Weekly Farm News
The Texas Almanac
Dallas, Texas

G. B. Dealey

President September 26, 1935

To Members of the Legislature
Dallas County

The thanks of The News and myself are sent to the entire membership of the House of Representatives of the Texas Legislature for the generous and sympathetic resolution of Monday, which felicitates this newspaper on its Golden Jubilee and conveys an appreciation of its record which must remain an incentive to always maintain the high ideals, so splendidly recognized.

I should feel remiss indeed did I not extend on behalf of the A. H. Belo Corporation, publishers of The News, our personal thanks to the members of the Dallas delegation who introduced and sponsored the resolution. May I conclude with the wish that Dallas County sees eye to eye with us in the policy which is once more stressed in the editorial expression which I am enclosing, and that in recognizing the need of supplementing ability with experience it takes advantage of the present opportunity to make your legislative service a career?

Very sincerely yours,

G. B. DEALEY,
President.

JUBILEE RESOLUTION

To the members of the Dallas delegation in the lower House of the

Texas Legislature, and to the chamber itself which gave unanimous indorsement, The News owes a debt of thanks for their kindly appreciation of fifty years of service embraced in this newspaper's Golden Jubilee on Oct. 1. The House resolution, sponsored by Representatives James J. Collins, Jr., Rawlins M. Colquitt, W. O. Reed, Jeff Stinson, Sam Hanna and Fred Harris, congratulates The News for following a policy which alone can make a great newspaper. It says:

"The News creditably has served the true interests of all Texas, believing, like the pioneer Texans, that slow progress is the only sure progress, standing with courage where courage was needed and always ready to lead in real forward movements."

The News is glad to believe that the generous expression of the House is a recognition, too, that this newspaper's occasional criticism of electoral methods in regard to its membership is not a reflection on its quality but a consistent attempt to educate Texas to the value of supplementing ability with experience. The News trusts that long before it arrives at another Jubilee the citizens of Texas will have made legislative service a career.

BILL RE-REFERRED

On motion of Mr. Cagle, House Bill No. 87, was withdrawn from the Committee on Revenue and Taxation and referred to the Committee on Privileges, Suffrage and Elections.

REPORT OF COMMITTEE APPOINTED TO INVESTIGATE THE OIL INDUSTRY IN TEXAS

Mr. Celaya submitted the following report of the Committee heretofore appointed to investigate the oil industry in Texas, which report, on motion of Mr. Bradbury, was ordered printed in the Journal:

Austin, Texas, September 26, 1935.

To the Honorable Coke R. Stevenson, Speaker, and Members of the Forty-fourth Legislature, First Called Session, Austin, Texas.

Sirs: We, your Committee, appointed under and by virtue of the provisions of House Simple Resolution No. 126, adopted by the House of Representatives at the Regular Session of the Forty-fourth Legislature, for the purpose of investigating conditions in

the oil industry in Texas, and the administrative control thereof, together with the enforcement of the Oil and Gas Conservation statutes, now submit the following preliminary report of the work done by this Committee to date.

Your Committee has held numerous hearings in the East Texas Oil field, in the cities of Longview and Kilgore; three hearings in the City of Austin, one in Houston, one in Fort Worth, and one in Dallas, during which hearings many witnesses have been examined under oath, the complete transcript of whose testimony is submitted herewith.

Based upon the testimony so adduced the Committee finds that many of the rumors that have been prevalent with reference to the running of so-called hot oil and other conditions existing in the East Texas oil field have an actual fact foundation. While in many instances rumors were found to be without foundation, or the Committee has been unable to verify them, in virtually as many instances the actual conditions were found to be even worse than alleged by rumors.

The existence of a lack of co-ordination by the three State departments, namely, the Railroad Commission, the Attorney General's Department and the Comptroller's Department, most definitely charged by statute with the responsibility of administering the laws governing the oil industry is plainly apparent.

It appears from our records of the testimony of witnesses that the Attorney General's Department, charged with the responsibility of serving as attorney for the Railroad Commission has been seriously handicapped in various legal proceedings incident to the enforcement of oil statutes by lack of information upon which to predicate penalty suits and upon which to defend injunctions and other suits against the Railroad Commission, which information is supposed to be furnished by the Investigation Department of the Oil and Gas Division. The Railroad Commission in turn has contented itself in a majority of instances, with the mere filing of violations with the Attorney General's Department for whatever legal action the Attorney General deemed mete and proper, tendering little, if any, further assistance or "follow-up" cooperation. The Comptroller's Department, while not concerned at all under the law, with the

enforcement of conservation statutes, is charged only with the responsibility of collecting gasoline, gross production and other taxes. In performing this duty in a most creditable manner, however, the Comptroller's Department gathers and keeps among its records much valuable information which sheds a vast deal of light on the actual operations of various phases of the oil industry, which records would be of invaluable assistance to the enforcing agencies, had they seen fit in the past to avail themselves thereof.

Apparently the Comptroller has not voluntarily tendered the use of his records to other departments out of a justified pride in his own accomplishments and a natural reticence in presuming to step beyond his own statutory obligations and assist in carrying the burden of other state departments.

In order to secure unbiased testimony from the most reliable sources available, the Committee has depended largely on evidence elicited from employees, under oath, of the various State Departments, much of it being taken from employees of the Oil and Gas Division of the Railroad Commission in its office at Kilgore. In addition the Committee has availed itself freely of all matters reflected by the records of the above mentioned three departments.

Upon a careful examination of the personal records of the employees of the Oil and Gas Division of the Railroad Commission as presented to the Committee and explained by the Chief Engineer of the Commission in charge of the East Texas field, and further upon personal examination of numerous employees, we found wholesale employment of inexperienced, incompetent men in whose hands was placed the administration and control of one of the State's largest and most valuable industries, and from which the State derives its greatest revenue. With up to some 84 refineries having been constructed and operating in the East Texas field at various times during the past four years, we found the Commission entirely without the services of any employee that might be classed as even a practical refinery engineer, there being no one on the Commission force who was able to give the Committee any definite information as to the products yield of any of the refineries, and not until the day preceding the appearance of the Chairman of the Railroad Commission

before the Committee, was an effort made to perform actual tests to determine such yield. This condition has existed, notwithstanding the fact that accurate information in the matter of refinery yields is most necessary and vital to a correct and proper granting of products tenders and the control of refinery operations. The only information in possession of the Commission with reference to this matter was such as was submitted voluntarily by twelve (12) of the refineries, which was accepted as correct, though unsworn and thereafter used as a basis for approving tenders. In addition the Committee found, among others, men occupying in many instances, technical positions, whose previous training and experience was entirely foreign to any phase of the oil business; thus placing the Commission in the attitude of operating a training school at public expense.

In order to have a more intelligent understanding from which to proceed, the first witness called was a Commission employee high in authority, who detailed at length, at the request of the Committee, the system used by the Commission for the prevention of law violations, primarily the running of illegal oil. The system as outlined by this witness is what is commonly called the Tender System which has been in force in the East Texas field for some two years and has been State-wide in its application since the passage of Senate Bill 21 of the Third Called Session of the Forty-third Legislature. The opinion of this witness, which later was confirmed by the chairman of the Railroad Commission, was to the effect that this system was entirely adequate and complete, and though not perfect, as yet, was being administered in such a fashion by the Commission as to be calculated in the not far distant future to reduce and maintain the flow of hot oil at an irreducible minimum.

While convinced that these statements were made in complete good faith by these two witnesses, the Committee is constrained to believe, after investigating the actual results obtained under this system, that these witnesses were aware only to a slight extent as to the results actually achieved.

The tender system is predicated upon and of necessity requires the keeping of voluminous records, the ac-

curacy of which determines in direct proportion the success or failure of the system. Upon a careful examination of the Commission's records in the Kilgore office the Committee finds little except inaccuracies, incompetencies, incongruities, and practically nothing that would bespeak an efficient administration of the system. Up to the time of the Committee's examination of the books and records no balances had been maintained between crude allowances and crude tenders, it being fundamentally apparent on its face that such a balance is necessary if the tender system is to have any practical value; in turn no balances had been maintained between the crude tenders and products tenders, such balances likewise being necessary if the tender system is to be clothed with any significant meaning, in turn no balance was available as between products tenders and actual shipments from the field, save and except that which is reflected in railway bills of lading and pipeline reports, leaving truck shipments in a highly speculative state.

Such information as was reflected by the Commission's records was found to be in most instances a mere transcript of reports made to the Commission by the various operators and refiners and was not based at all upon actual examination of the physical properties by Commission agents, which condition furnished the foundation for the statement made under oath by one of the Commission auditors that "if all the refineries had good bookkeepers the Commission's books would always balance, because the refineries' bookkeepers would not let them get out of balance." This situation, likewise, justified the statement under oath by the auditor in charge of the Commission's books at Kilgore, that the Commission's records were in a "terrible mess."

In order not to be placed in the position of relying solely on the judgment of individual members of the Committee, at the same time to secure expert testimony of a strictly unbiased nature the Committee summoned the State Auditor to Kilgore and had an examination of the Commission's books and records made by him, and incorporated into the transcript submitted. Herewith is sworn testimony with reference to his findings, all of which corroborated and confirmed the Committee's findings from its personal examination of the books and records, as

well as the Commission's Auditor's and bookkeepers. The State Auditor further testified that he found no indications of where a balance had ever been maintained in the Commission's records, and the Committee record further shows that no audit has ever been made of the Commission's books or records during the existence of the Commission's field office in East Texas. Such tender records as are kept in the main office of the Commission at Austin are taken directly from the records in the Kilgore office, which as shown above are in turn furnished by the refineries and operators themselves, the Austin records thereby being erroneous in the same proportion as are the Kilgore records. In view of this situation it was not surprising to find that in many instances the Commission's records were incomplete and sadly lacking on certain elements that were vital and necessary to reflect accurately the transactions in the field. It was likewise not surprising to find that with such a slack and inefficient system of keeping records that the Commission has been victimized at the hands of designing operators who furnished the Commission with false statements to an extent which in some instances is all but ludicrous. Similarly, when called upon by the Committee for information pertaining to the unused balances on tenders in favor of any given operator, the Commission's chief auditor, after diligent effort, advised the Committee that it was impossible to ascertain from the Commission's records the amount of unused balances as of any given date. It naturally follows that in a bookkeeping system with this small degree of accuracy, the making of false entries is rather easily done and at the same time they are difficult of detection, of which practice the Commission has also been a victim.

The effectiveness of the Commission's enforcement is well demonstrated in the circumstances surrounding the complete shut-down of all refineries operating illegally during the week of April 15th, 1935, according to his own testimony, demand was made of the chief engineer of the East Texas field to close down immediately all refineries then operating on illegal or untendered crude. The only method by which the chief engineer was finally, though only temporarily, successful in carrying out this instruction from the Commission was to invite the operators

of these illegal plants to the Commission office, where, after some discussion, argument and persuasion they were prevailed upon to cease violations for a period of one week, after which time the same illegal practices were resumed and continued, practically unabated. Those refineries who were presumably operating legally were given no consideration in the conference above described, but a careful examination of their operations reveals that many of them might well have been requested at the same time to come within the Commission's Rules and Regulations, if only for a week. Actual inventories and records of these plants reflect that many of them were operating on vast quantities of illegal or hot oil, of which the Commission at least had no records, if any knowledge of such operations. In one instance during the month of April, 1935, one plant, though classified by the Commission as operating on strictly legal oil, actually ran approximately 204,000 barrels of excess oil through its stills. Since the Commission's records, as outlined above, are supplied primarily by the operators themselves, it is indeed expecting much of an operator to report voluntarily to the Commission, illegal operations of the above proportions, when by merely remaining silent he continues virtually unmolested. The above statement is predicated upon the testimony of the Commission's agent, in charge of refinery investigation, to the effect that the work of his department was a mere "bluff." Reference is here made to the Committee's transcript and Exhibit of refinery operations for details of actual conditions during the month of January, February, March, April and May of this year.

During this same period of time the Commission reported from their open records a mere minimum of excess production, which reports based upon their records, were correct, but based upon actual facts and conditions as found and proven by the Committee, such reports constitute either misrepresentation or ignorance of the true state of affairs.

Due to the fact that the Railroad Commission's administration of Rule 37 of the Commission's Rules and Regulations, concerning the granting of drilling permits on tracts of land of less than 10 acres in area, has provoked perhaps as much wide-spread criticism and has been one of the most

fertile fields from which as many unwholesome rumors have germinated as any other phase of the Commission's work, the Committee has seen fit to devote some time and attention toward an effort to determine the actual basis upon which drilling permits are granted. A complete and thorough examination of all the records and facts pertinent to this particular phase of the Commission's work would require infinitely more time and money than the Committee has been afforded, but limited though our investigation has been into this particular phase of oil administration, we find certain conditions which to our minds warrant the attention of the Legislature. The same procedure was deemed advisable by the Committee in this instance as was employed in our examination of the tender system, namely, those Commission agents charged with the responsibility of administering Rule 37 were first called before the Committee in order to determine the manner in which Rule 37 was designed and intended to be operated. From these witnesses the Committee learned that hearings on applications for drilling permits were of a very informal nature, requiring in few, if any instances, the service of an attorney to represent the applicant; and further, that all cases were decided solely upon the merits and facts involved in any particular application. The findings of these particular employes, however, are merely advisory, and subject always to the final approval or disapproval of any two of the three Railroad Commissioners. This information furnished by the Commission employees gave no occasion for any concern on the part of the Committee, however, these same witnesses testified that there were certain persons who appeared before them requesting the permits usually as agent or legal representative of another with marked regularity and whose percentage of success in securing the permits requested was rather high; no reason being assigned, however, for such consistent successful applications. Upon investigation of specific instances however, the Committee finds circumstances surrounding the granting of drilling permits as we feel would justify an even scrutiny of other administrative acts performed in this connection. Of the many thousands of so-called Rule 37 cases that have been disposed of by the Commission within the past four years the Committee has

not undertaken to examine carefully more than a few, among which was found an instance where a permit was requested on a tract of approximately three acres by three different operators in succession, over a period of some two years, all of which applications were denied, and finally the third applicant was notified by the Railroad Commission, on his application for a re-hearing, that the Commission would not care to consider the matter further. Presently an application for drilling permit on this same tract was made by a fourth applicant and promptly granted, and strangely enough, the fourth applicant was among those named by the Commission witnesses as appearing before the Commission with marked regularity and unusual success. It is unnecessary to burden this report with details of other specific instances since the record of the Committee speaks for itself on these matters, but suffice it to say that it appears that many exorbitant fees have been paid for the rendition of a minimum amount of service, the necessity of which in many instances is highly questionable, and conclusive indications point to the fact that personalities are considered as well as the merits and physical facts pertaining to certain cases.

A similar situation furnishing a lucrative field of legal practice has been found by the Committee to exist in the administration and enforcement over the confiscation features of House Bill No. 581, passed at the Regular Session of the Forty-fourth Legislature. This, coupled with other phases found to exist in administration of this law is, we think, worthy of the further attention of this Committee and the Legislature. The administration of this law has all but put the State in the "hot oil business" and has given rise to a form of "legal" racketeering with numerous ramifications. Here, again, the enforcement agencies have been victimized by various sharp practices which to date apparently finds the law violators at least a full length ahead and nearing the home stretch.

Since the Attorney General's Department has not been provided with facilities for making its own investigations, it is not surprising that in any number of confiscation suits allegations have been made of much larger quantities of illegal oil existing in earthen storage than was actually on hand; and since the judgments of con-

fiscation entered in such suits usually require the Railroad Commission to issue tenders for the amount of oil confiscated, if such allegations of excess quantities are carried on into the judgment, it is plainly evident that the defendant owner of the illegal oil who in most instances repurchases his own oil, will receive a decided advantage in securing tenders which can be used to move other excess oil than that actually confiscated. Some improvement, however, has been noted in the handling of these cases, by providing in the court orders provisions for further payment or refunds as an actual gauge of the oil on hand might show to be necessary. On the other hand, Commission employees, charged with the responsibility of making such investigations, and furnishing such information to the Attorney General's Department, offer the defense that many of the early confiscation sales were made without their knowledge and without their being called upon by the Attorney General's Department to make actual gauges of the oil to be confiscated and to furnish the information ascertained thereby. The administration of this law has, without doubt, inured to the benefit of the producers and owners of illegal or hot oil furnishing them an opportunity to transport such oil after administering a "legal blessing" of this character, at an additional expense sufficiently small to maintain their operations on a profitable basis. Any recommendations as to legislative correction of this situation would perhaps be premature at this time, in view of the fact that the law is new in operation and the further fact that there are numerous ramifications with reference thereto that the Committee has been unable to trace to their ultimate conclusion, for reasons too obvious to mention here, but in the light of such inquiry as has been made into this situation we do not consider it a violent conclusion that the administration of this law has virtually amounted to the State of Texas placing oil tenders on the auction blocks and selling permits to move illegal oil, and certainly we feel that such was not the legislative intent of this statute.

A most vicious practice has been brought to light, and though our investigation is very incomplete at this time, sufficient testimony has been developed to disclose transactions of such a questionable and highly reprehensi-

ble nature as would justify a thorough and searching scrutiny of other undeveloped leads now in the hands of the Committee. This practice has to do with the offering for sale by those claiming to have, and possibly having, an entree to official records, if not the keepers of such records, of increased potentials on wells together with the resultant increases in daily allowables. This practice has been engaged in quite recently, much of the testimony with reference thereto having been developed since the present Session of the Legislature was convened. The discrepancies occasioned by these "purchased potentials" though appearing of record, escaped the Commission's notice even after three additional auditors had been dispatched to the Kilgore office to correct glaring weaknesses in the Commission's Bookkeeping system previously pointed out to the Commission by this Committee, until such practices were called to the attention of the Commission by individual operators.

In fairness to the Commission, however, we report that the matter is under investigation at this time by that body and has been placed in the hands of the District Attorney of the proper County. Without intending to discredit the work of the Commission unnecessarily, but adhering strictly to the record as developed through the course of our investigations we feel constrained to direct the attention of the Legislature to the fact that this delayed investigation on the part of the Commission of such practices are in keeping with what our record reveals to be the usual and customary procedure of the Commission; the three Commissioners, as well as employees high in authority, having expressed great surprise at certain facts developed by this committee, which facts were taken directly from the records of the Commission, which records had been in their possession for a long period of time prior to the Committee's examination.

In order to bestow credit where credit is due, before concluding this report, the Committee desires to apprise the Legislature that it has been accorded by all State Departments, every courtesy and co-operation requested of them, with reference to permitting access to their records and furnishing data therefrom, and in the appearance of officials and employees as witnesses before the Committee.

We do not submit this report as being in any wise complete either as to the facts already developed, and most certainly not as to the possibility of further developments. The record submitted herewith will speak for itself as to the progress made thus far, but much information in the hands of the Committee has been impossible of thorough investigation with the limited time and facilities afforded.

The Committee has received numerous offers and urgent requests to accept financial assistance from private citizens who were interested in assisting with the elimination of such practices as above outlined, but such offers have been consistently refused in each instance by the Committee.

Respectfully submitted,
AUGUSTINE CELAYA,
Chairman.

HARRY N. GRAVES,
WALTER E. JONES,
SIDNEY LATHAM,
HUGH B. STEWARD.

MINORITY REPORT OF THE COMMITTEE APPOINTED TO INVESTIGATE CERTAIN STATE DEPARTMENTS

Mr. Hunter submitted for consideration at this time, the report of the Minority of the committee heretofore appointed in pursuant to House Concurrent Resolution No. 105, of the Regular Session of the Forty-fourth Legislature, concerning certain alleged irregularities in the State Department of Agriculture.

Mr. Quinn moved that the minority report be not filed and printed at this time, that further consideration of same be postponed until next Monday and that the majority report of the committee be filed and printed with the minority report, at that time.

Mr. Hardin moved to table the motion by Mr. Quinn.

Question recurring on the motion to table, yeas and nays were demanded.

The motion to table prevailed by the following vote:

Yeas—104

Adamson	Bradford
Adkins	Broyles
Aikin	Burton
Alsup	Butler of Brazos
Bergman	Putler of Karnes
Bradbury	Cagle

Canon	Latham
Clayton	Leath
Collins	Lemens
Colson	Lindsey
Cooper	Lucas
Craddock	McCalla
Daniel	McConnell
Davis	McFarland
Davison of Fisher	McKinney
Dickison	Moffett
Dunagan	Morris
Dunlap of Hays	Newton
Duvall	Nicholson
England	Olsen
Fain	Padgett
Farmer	Palmer
Fisher	Patterson
Fox	Payne
Frazer	Petsch
Gibson	Pope
Glass	Reader
Graves	Reed of Bowie
Gray	Reed of Dallas
Greathouse	Roach of Angelina
Hankamer	Roane
Hanna	Rogers
Hardin	Rutta
Harris of Archer	Scarborough
Head	Sessions
Herzik	Settle
Hill	Shofner
Hodges	Smith
Hofheinz	Stanfield
Hoskins	Steward
Howard	Tarwater
Huddleston	Tennyson
Hunt	Thornton
Hunter	Tillery
Hyder	Venable
Jackson	Waggoner
Jefferson	Walker
Jones of Wise	Westfall
Keefe	Wood of Harrison
King	Wood of Montague
Knetsch	Young
Lanning	Youngblood

Nays—22

Caldwell	Jones of Shelby
Calvert	Luker
Colquitt	Mauritz
Cowley	Moore
Crossley	Quinn
Dwyer	Riddle
Ford	Roark
Fuchs	Russell
Good	Stovall
Harris of Dallas	Wells
James	Worley

Present—Not Voting

Jones of Falls

Absent

Alexander	Lange
Atchison	Leonard
Celaya	McKee
Davisson	Morrison
of Eastland	Morse
Dunlap of Kleberg	Roach of Hunt
Hartzog	Roberts
Holland	Stinson
Jones of Atascosa	

Absent—Excused

Ash	Fitzwater
Beck	Lotief
Bourne	Spears

Mr. Hardin moved that the report of the Minority of the committee be printed in the Journal.

Question recurring on the motion by Mr. Hardin, yeas and nays were demanded.

The motion prevailed by the following vote:

Yeas—105

Adamson	Greathouse
Aikin	Hanna
Alexander	Hardin
Bergman	Harris of Archer
Bradbury	Harris of Dallas
Bradford	Hartzog
Broyles	Head
Burton	Herzik
Butler of Brazos	Hodges
Butler of Karnes	Hofheinz
Cagle	Holland
Calvert	Hoskins
Canon	Howard
Celaya	Huddleston
Collins	Hunt
Colquitt	Hunter
Cooper	Hyder
Craddock	Jackson
Crossley	Jefferson
Daniel	Jones of Shelby
Davis	Jones of Wise
Davison of Fisher	Keefe
Davisson	King
of Eastland	Knetsch
Dunlap of Hays	Lange
Dunlap of Kleberg	Latham
Duvall	Leath
Fain	Lemens
Farmer	Lindsey
Fisher	Lucas
Fox	McCalla
Frazer	McConnell
Gibson	McFarland
Glass	McKinney
Good	Moffett
Graves	Morris
Gray	Morrison

Newton	Shofner
Padgett	Smith
Palmer	Steward
Patterson	Stinson
Pope	Tennyson
Quinn	Thornton
Reed of Bowie	Tillery
Reed of Dallas	Venable
Roach of Angelina	Waggoner
Roach of Hunt	Walker
Roane	Wells
Roark	Wood of Harrison
Roberts	Wood of Montague
Rutta	Worley
Sessions	Young
Settle	Youngblood

Nays—19

Adkins	Moore
Alsup	Nicholson
Clayton	Riddle
Colson	Rogers
Dickison	Russell
Dwyer	Stanfield
Fuchs	Stovall
Hill	Tarwater
James	Westfall
Mauritz	

Absent

Atchison	Leonard
Caldwell	Luker
Cowley	McKee
Dunagan	Morse
England	Olsen
Ford	Payne
Hankamer	Petsch
Jones of Atascosa	Reader
Jones of Falls	Scarborough
Lanning	

Absent—Excused

Ash	Fitzwater
Beck	Lotief
Bourne	Spears

The following is the report of the Minority Committee:

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COMMITTEE REPORT

Austin, Texas, September 23, 1935.

Hon. Coke R. Stevenson, Speaker,
House of Representatives.
Austin, Texas.

Sir: Pursuant to House Concurrent Resolution No. 105, adopted at the Regular Session of the Forty-fourth Legislature, we, the following Members appointed to a Committee by the Speaker of the House, beg leave to make this Minority Report to the Honorable House of Representatives concerning our findings with reference to the matters hereinafter set forth, the entire personnel of your said Committee being: E. E. Hunter, Chairman; Leonard Westfall, Vice-Chairman; R. H. Good, Secretary; Pat Dwyer, and C. C. Canon. Having been previously organized, this Committee has met on several occasions and, acting by virtue of said House Concurrent Resolution No. 105, have failed to agree in some of the matters investigated, necessitating the filing of this Minority Report.

This Committee met and at its first meeting appointed E. E. Hunter Chairman. At its next meeting an attempt was made by the Honorable Pat Dwyer to oust E. E. Hunter as Chairman and to appoint another member to that position. Failing in his attempt, the Honorable Pat Dwyer gave the statement to the press that E. E. Hunter, Chairman, was without authority to subpoena records, witnesses, etc. Upon advice of the Attorney General, the Chairman called a meeting of the Committee and secured the passage of a resolution delegating to him the necessary authority to subpoena records, witnesses, etc., the entire membership being present.

The minutes of each meeting reflect a determination on the part of the

Honorable Pat Dwyer, from the day of his appointment, to clear and exonerate J. E. McDonald regardless of what the facts and testimony revealed. The Honorable Leonard Westfall, in the beginning showed a desire to be fair and impartial and he, together with the Members whose signatures appear hereon, made an honest effort to arrive at the facts and the truth. To do this it was necessary for the Chairman and Members, together with the two State auditors assigned to the Committee, to take testimony wherever found and to subpoena records which they deemed necessary.

Much embarrassment was caused the Chairman and other Members by the efforts of the Honorable Pat Dwyer to create dissention within the Committee. When information was secured and presented to the Committee from time to time the Honorable Pat Dwyer belittled the Chairman and two other Members of the Committee and the State Auditors and made no effort whatsoever to ascertain the truth from the witnesses. At a meeting of the Committee the Honorable Pat Dwyer made a lengthy oration abusing the Chairman of the Committee and accusing him of being prejudiced and unfair. Instead of trying to arrive at the facts with regard to the conduct of the Commissioner of Agriculture, the Honorable Pat Dwyer made it his business to prosecute the Chairman of the Committee.

The two State Auditors assigned to the Committee by the State Auditor worked diligently and untiringly, securing information wherever possible to shed the real facts, and assisted the Committee in every way possible.

In the face of all the above obstacles, we, the Members whose signatures appear below, having a sincere regard for duty, and having made an honest attempt to remain fair and impartial, have investigated the official conduct and misconduct of the Commissioner of Agriculture of the State of Texas, J. E. McDonald, and find it our duty to present to the Members of the House of Representatives of the State of Texas all pertinent information which we have gathered, together with our recommendations.

CHARGE NO. 1

Violations of the Nepotism Act which he admitted before the House of Representatives, having paid to his

brother, A. E. McDonald of Waxahachie, Texas, out of funds in the State Treasury, the sum of \$315.00 for the transportation of animals, in violation of Article 432, R. P. C., 1925, thereby subjecting himself to the provisions of Article 437, R.P.C., 1925, and also Article 5996, R. C. S., 1925.

CHARGE NO. 2

Further Violation of the Nepotism Act by conniving with his brother, A. E. McDonald of Waxahachie, Texas, and Jim Tate to evade the Nepotism Act, in violation of Article 432, R. P.C., 1925, subjecting himself to the penalties set forth in Article 457, R.P.C., 1925, and Article 5996, R. C.S., 1925.

This contract was entered into verbally on or about the 2nd day of March, 1934, wherein Jim Tate was paid \$45.00 per head for transporting animals for the State of Texas from other States into Texas, receiving therefor approximately \$3,000.00 from April 1934, to December 1934. The evidence presented to this Committee clearly shows that Jim Tate did not own the truck in which said animals were transported, but that A. E. McDonald, brother of the Commissioner of Agriculture, J. E. McDonald, owned said truck. The evidence further proves that Jim Tate did not receive the use and benefit of the funds paid to him out of the State Treasury, but that said warrants, when cashed, became the property of A. E. McDonald, brother of the Commissioner of Agriculture, and were used for his benefit. The evidence further proves that the only benefit Jim Tate received from these operations was \$100.00 per month salary paid to him by check of the Peoples Potato and Plant Company of Waxahachie, Texas, which company was owned exclusively by A. E. McDonald, brother of the Commissioner of Agriculture. The evidence further proves that J. E. McDonald, Commissioner of Agriculture, knew or should have known that Jim Tate did not own the truck used in the hauling of said animals, even though a transfer was made from A. E. McDonald to Jim Tate ostensibly transferring title to said truck to Jim Tate. The facts surrounding this maneuver were easily available to J. E. McDonald, and the financial irresponsibility of Jim Tate so easy to obtain that the Commissioner

of Agriculture was either aware of said chicanery or guilty of the most flagrant negligence. The evidence proves that Jim Tate, a truck driver for A. E. McDonald, brother of the Commissioner of Agriculture, for the past five years, was not financially able to own a truck, much less operate said truck on as large a scale as was necessary for the transportation of said animals. Jim Tate himself testified that he did not own and never had owned said truck or trucks and he and two other employees of A. E. McDonald testified that J. E. McDonald, Commissioner of Agriculture, evidently knew or should have known the true owner of said truck or trucks. As further evidence that J. E. McDonald did not give instructions to Jim Tate as the owner of the truck, or trucks, but issued all instructions for the transportation of animals through his brother, A. E. McDonald, we present the following letter:

"October 25, 1934.

"Mr. A. E. McDonald
Waxahachie, Texas.

"Dear Arthur:

"I am giving you shipping instructions for Jim Tate.

"Load the five jacks now in Waxahachie; these jacks go to Rockwall, Marshall, Linden, San Augustine and Nacogdoches.

"(1) The three year old Tennessee jack to W. L. Anderson, nine miles from Rockwall, Sheriff Hall in Rockwall can tell you how to get to Anderson's place. Anderson has our gray jack so if Jim knows where he delivered the gray jack, he will know where to take this one.

"(2) The long haired jack goes to Web Rogers at Marshall. The jack that wants to cover everything that comes along, be sure and get the right jack as they especially selected him.

"(3) The jack not described goes to S. E. Ellington at Linden, Cass County, which is about 25 miles north of Marshall.

"(4) The small black fat jack goes to M. B. Thomas, at San Augustine.

"(5) The black jack that has the large nose and was cut with a rope in shipping, goes to J. W. Barrett of Nacogdoches. I am sure you will remember the jack that had the

rope marks across his nose when he arrived in Dallas. I think this gives you adequate description so you will be able to place enclosed tags of halters so there will be no mistake in unloading them.

"Please get Jim started with these as soon as possible.

"With all good wishes, I am

"Your brother,

"JEMcD/cy."

CHARGE NO. 3

Permitting his employee and agent, W. D. Thurman, to accept commissions and bribes in the amount of \$1625, all of which he is responsible for under his bond, whether permitted knowingly or unknowingly, and showing gross incompetency in office by not requiring a bond of W. D. Thurman.

The evidence presented to the Committee proves to these Members that W. D. Thurman, employee of the Department of Agriculture, accepted from sellers of animals a bribe or commission on the sale of each animal. The evidence presented to the Committee shows a total of \$1625.00 was accepted by W. D. Thurman as bribes and commissions, and Mr. Thurman, when testifying before the Committee, refused to testify regarding the acceptance of bribes, relying upon his constitutional rights, stating that he might incriminate himself. The Commissioner of Agriculture should have known, when the price of each animal purchased by Mr. Thurman steadily increased, that something was wrong, and should have made investigation sufficient to protect the State's interest. The testimony showed that before Mr. Thurman paid for an animal he would call the Commissioner of Agriculture, giving detailed descriptions and the price of each animal, and the Commissioner of Agriculture either approved or disapproved of the purchases. Insofar as the Commissioner of Agriculture did not protect the funds of the State of Texas by bonding W. D. Thurman, and permitted the indulgence of such a policy on the part of W. D. Thurman, he was guilty of flagrant negligence in the conduct of his official duties, and should reimburse the state in the amount of \$1625, which is the amount the State has paid out as excess cost of animals.

CHARGE NO. 4

Accepting bribes consisting of two Percheron mares, the sworn value of which is \$400.00, from persons with whom he was dealing for the State in his official capacity, thereby violating Article 159, R.P.C., 1925.

The Members of this House of Representatives heard the Commissioner of Agriculture, J. E. McDonald, in his address before said House on the last night of the last session of the Legislature, admit that two fine Percheron mares were given to his two sons, and yet the testimony given before this Committee by W. D. Thurman, Purchasing Agent of the Department of Agriculture, who was on the ground at the time said animals were shipped, is as follows:

"Q. Did you know anything about Mr. McDonald being given two mares?

"A. Yes.

"Q. How did you and Mr. Robinson and Dr. Wheeler get the idea of getting the mares for Mr. McDonald?

"A. He spoke about wanting two mares when Mr. Robison was here and wanted to buy two and Mr. Robison made the suggestion that he should give him two mares—two that he had on his farm, and the mares were bought and given to him.

"Q. How much did they cost?

"A. \$400.00.

"Q. Did you pay one-third of that cost?

"A. Yes.

"Q. To your knowledge there never was anything said in the conversation with Mr. Robison and Dr. Wheeler that you were talking about giving the mares to the boys?

"A. I did not know anything about that. He knew they were going to buy them.

"Q. Did you hear that he fell in love with the boys?

"A. I did not know about that. I read it in the paper.

"Q. Did you know that these two mares were bred to the United States Grand Champion?

"A. No I did not. Mr. Robison said they were. One of the mares wasn't even bred and the other one's colt didn't look like a grand champion's colt.

"Q. What is the price charged for the stud fee on that United States Grand Champion?

"A. I believe it is \$25.00 but I wouldn't say for sure.

"Q. Were any transfer charges to be paid?

"A. I believe it was understood that Mr. McDonald pay the freight. They were brought down by Mr. Robison's son.

"Q. Do you think Mr. McDonald knew that they were going to be given to him?

"A. I could not say.

"Q. You never said anything to him that you were buying them for him?

"A. I mentioned over the phone one night after Mr. Robison showed me two mares, that Mr. Robison had his mares and they were ready to go.

"Q. What did he say?

"A. He said he was glad of it.

"Q. He knew that he was not going to have to pay for them.

"A. I told him over the phone that they were going to be given to him.

"Q. Were they pretty good mares.

"A. Pretty good mares.

"Q. The \$400.00 was only the actual figure of them?

"A. I would judge they would bring \$250.00 apiece market price.

"Q. Do you know of any transfer charges and having pedigree brought up to date? Do you know how much the transfer is?

"A. Sometimes it is fifty cents and sometimes one dollar. According to ages.

"Q. What did the registration fee cost on that?

"A. I would judge it would cost \$5.00 to register them.

"Q. Do you know of any transfer charge or registration charge that would cost \$35.00?

"A. I don't think it would cost that much.

"Q. So far as you know they would cost \$250.00 apiece.

"A. Yes."

In addition to the testimony of W. D. Thurman we set forth below a copy of the invoice from J. C. Robison of Towanda, Kansas, seller of said mares, showing that these animals were sold to J. E. McDonald:

"White Water Falls Farms, Towanda, Kansas.

"Registered Percheron mares sold to J. E. McDonald, Waxahachie, Texas.

"ALMA

No. 271—Black, long star, snip, left hind foot white.

Foaled, May 15, 1930.

Sire:—Klinger 195654.

Dam:—Maggie 153642.

Bred May 5, 1934 to DAMASCUS No. 206408.

"No. 272—Almeda, Black, strip, Right hind foot white.

Foaled, May 10, 1931

Sire:—Klinger 195654.

Dam:—Maggie 153642.

Bred May 7, 1934, to DAMASCUS No. 206408."

It is conclusive to the minds of the Members making this report that Mr. Thurman, who paid one-third the cost of the above animals and was present in Towanada, Kansas, at the time said animals were shipped, would know to whom the animals were given. According to his testimony they were given to J. E. McDonald, Commissioner of Agriculture.

CHARGE NO. 5

The diversion of special jockey funds from the purposes to which they were dedicated by law, in violation of the provisions of House Bill No. 12, Acts Forty-third Legislature, First Called Session, Section 5, and subjecting himself to the penalties provided in Article 94, R.P.C., 1925.

The Commissioner of Agriculture, as ex-officio Member of the Racing Commission, passed rules and regulations requiring each trainer, jockey, etc., to pay a license fee each year before being admitted on the tracks. When said funds were collected they were placed in a Jockey Fund to be used, among other things, for the hospitalization of injured jockeys. The Attorney General's Department ruled that said moneys should have been deposited in the Special Racing Fund and distributed according to law. There was collected, from January 1, 1934, to December 31, 1934, the sum of \$8754.00, which funds were deposited in the Jockey Fund and \$2070.66 paid out during said period for the hospitalization of jockeys and for other expenses, resulting in a loss to the Available School Fund, the Jack and Stallion Fund, the Department of Agriculture, and the 254 Counties of the State of their proportionate part of said moneys.

CHARGE NO. 6

Diversion of procreation fees from the purposes to which they were dedicated by law, in violation of the provisions of House Bill No. 12, Acts Forty-third Legislature, First Called Session, Section 5, and subjecting himself to the penalties set forth in Article 94, R.P.C., 1925.

The law provides that the Commissioner of Agriculture may charge a breeding fee of \$5.00 and when said fee is paid that it shall be deposited in the State Treasury to the credit of the Special Racing Fund. The Commissioner of Agriculture, from February 1, 1934, to December 20, 1934, collected procreation fees amounting to \$16,196.00, which were not deposited with the State Treasurer, but were placed in a local bank and payments made therefrom over the signature of the Commissioner of Agriculture only, amounting to \$13,319.04 for said period. This resulted in the Available School Fund, the Jack and Stallion Fund, the Department of Agriculture and the 254 counties of the State being deprived of their proportionate part of said funds as provided by law.

CHARGE NO. 7

His fictitious purchase of animals with his own personal funds and personal funds of his employees, thereby distorting the records of the Department of Agriculture and confusing public funds with personal funds, showing gross incompetency in office.

During the month of March, 1934, a State warrant, in the amount of \$970.00, was issued, payable to M. S. Frazee, an employee of the State Department of Agriculture, in payment of an invoice sworn to by M. S. Frazee, in the amount of \$970.00. Investigation revealed that on March 23, 1934, J. E. McDonald borrowed \$150.00 from M. S. Frazee and \$800.00 from the Austin National Bank, making a total of \$950.00. This \$950.00 was wired to W. D. Thurman at Springfield, Missouri, to pay for animals purchased by him for the State of Texas. Later Mr. M. S. Frazee billed the State for \$970.00 to cover the \$950.00 which Mr. Thurman had paid for the animals, the \$20.00 to cover incidental charges. The Comptroller issued warrant payable to M. S. Frazee

for \$970.00, \$800.00 of which was to reimburse J. E. McDonald for personal funds, and \$150.00 to reimburse M. S. Frazee for personal funds, and the \$20.00 difference has not been properly accounted for. On another occasion a warrant in the amount of \$1015.00 made payable to Mr. Blackwell of Springfield, Missouri, was endorsed by M. S. Frazee and cashed locally. Investigation revealed that M. S. Frazee advanced his personal funds in this amount to purchase animals through Mr. Blackwell, and Mr. Blackwell authorized Mr. Frazee to cash said warrant.

On October 24, 1934, a warrant, in the amount of \$3231.20, was issued payable to R. E. Snell of Murfreesboro, Tennessee. This warrant was endorsed by the Commissioner of Agriculture, J. E. McDonald, and was deposited in the Republic National Bank of Dallas, Texas. Investigation revealed that J. E. McDonald borrowed \$3300.00 from the Republic National Bank of Dallas and paid Mr. Snell for animals purchased from him in the amount of \$3231.00, and that Mr. Snell authorized Mr. McDonald to endorse said warrant in order to reimburse himself.

This procedure is entirely irregular and shows either wilful distortion of records or gross incompetency in office.

CHARGE NO. 8

His wilful neglect of duty and general incompetence in connection with collection of fees and handling of funds received in the regular conduct of the office of Commissioner of Agriculture, subjecting him to the provisions of Article 5964 and Article 5961, R. C. S., 1925.

On or about January 1, 1935, after an investigation had been started with reference to the Special Racing Fund, the Commissioner of Agriculture, by ruling from the Attorney General's Department, was unable to secure the necessary funds with which to pay caretakers of State-owned animals their \$30.00 per month salary, as per a written contract with them. The Commissioner of Agriculture then entered into a contract with the caretakers, agreeing to pay them \$30.00 per month for the care of one animal, to be paid as follows: the caretaker to withhold the first three \$5.00 breeding fees per month, and the Commissioner of Agriculture to pay, in cash,

\$15.00 per month. The auditors called this contract to the attention of Mr. McDonald on or about the date it was entered into, citing the fact that the law demanded when procreation fees were charged they must be collected and deposited with the State Treasurer in the Special Racing Fund, and furthermore, that they were subject to refund and if not handled according to law a proper accounting could not be made for said fees. The auditors asked that an Attorney General's opinion be secured with reference to the legality of this contract, and this Committee finds that said contract was continued until recently.

The State Auditor's reports on the Department of Agriculture further reveal that fees collected from different sources were improperly handled and reflect a general incompetency of office and wilful neglect of duty.

CHARGE NO. 9

With general oppression in office and the lending of his official office, without sanction of law, to promote the interests of milk, cream, baby chick, and rice organizations, with detrimental results to the actual producers of these products, subjecting himself to the provisions of Articles 5961 and 5964, R. C. S., 1925.

The Commissioner of Agriculture created a milk testing board and appointed an administrator or chairman, whose duty it was to foster the improvement of butter, on the grounds that an emergency existed and that Texas butter was being discriminated against in the eastern markets. Investigation proved that a total of \$15,659.03 was collected from April 1, 1934, to April 18, 1935, by this board and that no emergency existed, and further, that Texas butter could not be discriminated against in the eastern markets for reason that it lost its identity at the first centralization point. The board promulgated rules and regulations requiring that all cream purchased be based on first, second and third grades. The provisions made for enforcement of this rule were the employment of three or four inspectors whose duty it was to inspect all cream purchased by fifty or more creameries plus three or four thousand cream purchasing stations scattered over the State of Texas.

Cream was bought at all hours of the day and it was impossible for so few inspectors to be present when all cream was being purchased. In order to determine first, second and third grade cream a test was prescribed as follows: first, the cream was looked at, second, it was smelled of, and third, it was tasted. Then a grade tax, bearing the signature of the Commissioner of Agriculture, was placed thereon.

It developed that the cream testing board paid to Borden's of Fort Worth, several hundred dollars for printing, stationery, stamps, telegrams, and telephone charges. When the Committee inquired of J. W. Ridgway, former manager of Borden's at Fort Worth, as to the kind of printing, stationery, etc., said payments covered, they were advised, under oath, that all records pertaining to said transactions had been burned. However, correspondence on file in the office of the Commissioner of Agriculture showed that on July 17, 1934, the following letter was sent out by J. W. Ridgway of Fort Worth, who was Chairman of the cream testing board and also manager of Borden's at Fort Worth. Across the edge of this letter Mr. W. A. Canon, an employee of the Department of Agriculture, wrote as follows: "This copy of another letter Ridgway sent out. He reports excellent response." The letter is set forth as follows:

"Fort Worth, Texas, July 17, 1934.

"Dear Mr. Canon:

"I am writing this letter to you, asking that you do everything that you possibly can to further the candidacy of Mr. J. E. McDonald for Commissioner of Agriculture. I am doing this because I know that Mr. McDonald by virtue of his qualifications, experience, and the policy of his Department, can best serve the interests of agriculture.

"Mr. McDonald is a man of broad practical farm experience. He is thoroughly familiar with what is needed to improve agricultural conditions in this State. He has some splendid plans that should help materially in improving conditions. He has been outstanding in working out with the Government and other agricultural agencies, policies of the Agricultural Adjustment Administration. He has in many sections of the State saved the dairy industry by offering the services of his De-

partment in bringing about codes, price agreements, etc. He has sponsored a cream grading program that is functioning to the advantage of the producer and to the improvement of Texas butter.

"It is unfortunate that a man of Mr. McDonald's qualifications and capability should even have to make a campaign for re-election. Knowing him personally as I do, and having been associated with him in many of his activities, I feel no hesitancy in soliciting my friends' support for his re-election, I would consider it a personal favor if you will use your influence in bringing this about.

"Yours very truly,

"J. W. Ridgway."

In addition to the above letter, we set forth below copy of a letter wherein it is shown that sixty thousand circulars were sent out by Mr. Ridgway:

"July 24, 1934.

"Mr. J. E. McDonald

"Commissioner of Agriculture

"Austin, Texas.

"Dear Mr. McDonald:

"Enclosed you will find a letter I have just received from Homer Wade. I am forwarding it to you principally so that you may see what he has to say regarding the political situation.

"I stopped in Fort Worth Sunday and talked to Ridgway quite a while. He had just finished sending out 60,000 circulars to cream buying stations and others interested in this program when I got there, and since his circular was designed specifically to counteract their efforts to mislead the people on this program and contained facts which could not be refuted he and I decided that it would not be best to send the pamphlets I had to the same people, so I brought them on here with me and will send them out to others over this section of the State, keeping enough here to distribute on election day.

"I am more firmly convinced than ever that this whole section of the State is in excellent shape and I am confidently expecting the race to be decidedly determined next Saturday, without a run-off.

"Please keep me posted of any developments.

"Very truly yours,

"(Signed) W. A. Canon."

This cream testing program placed the creameries of the State in position to purchase all cream on a first and second grade basis, and furthermore, prohibited the producer from selling, at any price, third grade cream.

Prior to this program of cream grading, all cream had been graded by what was known as the "Babcock Test," which test determined the butter fat content of cream. When the look, taste and smell movement started the farmer producing cream with a high butter fat content could be penalized for the look, smell or taste of his cream. This placed the creameries in position to increase or decrease the amount of second and third grade cream according to market demand.

The creameries and employees interviewed freely admitted that the look, taste and smell method could not be substantiated in court and was not enforceable if the producer saw fit to contest the grade. However, it was unlikely that a producer of five gallons of cream could afford to go into court to contest the optical, nasal and tasting ability of an employee parading under the guise of State authority.

The Commissioner of Agriculture created milk codes in the leading cities of the State, appointing, at each place, an Administrator whose duty it was to enforce a code of fair practice and marketing agreement. This agreement, when filed, authorized the Commissioner of Agriculture or his Administrator to collect fees necessary for the administration expenses and to assess fines and penalties.

The auditors requested that Mr. McDonald present the books and records as kept by each of his duly appointed administrators, showing receipt and disbursements of funds collected under each code. Mr. McDonald failed to produce any of these records. The Chairman of the Committee held a hearing in Fort Worth and took the testimony of Mr. J. W. Ridgway, the duly appointed Administrator of the Fort Worth Milk Code. Mr. Ridgway testified, under oath that all records pertaining to the milk code had been burned.

The records of the bank in Fort Worth showed that from August 24, 1933, to September 7, 1934, a total of \$4837.25 was collected by Mr. Ridgway. Mr. Ridgway testified that a salary of \$250.00 per month was paid him from said moneys, and that at the same time he was drawing a salary from Borden's as Manager of the Fort Worth plant. The Committee was unable to determine what this money was spent for, but other evidence and correspondence indicates that it was probably used to advance the campaign interests of J. E. McDonald, Commissioner of Agriculture. Mr. Ridgway, under oath, testified that under the code as set up in Fort Worth he was the "King Fish" of the Fort Worth Milk Shed and was often referred to as "Mussolini." The producer of milk at Fort Worth was not represented in any manner under the code as administered and without going through mathematical gymnastics could not determine whether he was receiving the proper price for his products. This Committee requested of the Commissioner of Agriculture any reports and data showing that the producer benefitted under the operation of said codes, but no such information has been presented. Since all the large creameries were strong supporters of Mr. McDonald for Commissioner of Agriculture, the Members of this Committee whose names are subscribed hereto conscientiously believe that all moneys collected under the guise of milk codes were used to further the political position of J. E. McDonald.

A baby chick organization was created, composed of the Commissioner of Agriculture and members of the faculty of Texas A. & M. College and members of the Texas Baby Chick Association. This organization required an annual membership fee and its by-laws provided that anyone could be refused membership by majority vote of the board. Members of this organization graded each other's chickens and a grade tag, bearing the signature of the Commissioner of Agriculture, was placed on all shipments, displaying to the world that said chicks had been graded. A fee was charged for each grade and paid in to the board to cover administration expenses.

Under a contract entered into by and between the Commissioner of

Agriculture of the State of Texas and the American Rice Growers Association it was agreed that all rice going through the American Rice Growers Association in Texas be graded by rice inspectors appointed by the Commissioner of Agriculture. It was voluntarily agreed by the American Rice Growers Association to pay the expenses of said grading in the form of fees. This money, when collected by the rice inspectors, who were appointed by the Commissioner of Agriculture, was deposited in a local bank and disbursed over the signature of the Commissioner of Agriculture.

After entering into a contract with the American Rice Growers Association, the Commissioner of Agriculture of the State of Texas entered into a contract with the Federal Department of Agriculture wherein the rice growers, by paying a fee to the duly appointed State authorities, could receive a Federal grade on rice, together with a State grade. This program carried along for a while on the above basis, however, during the last rice season, when the A. A. A. program came into effect, growers of rice were compelled to have a grade placed on their rice before disposing of same.

The Commissioner of Agriculture was without authority to enter into or countenance any such program, as the State law provides for the voluntary payment only, and the Commissioner of Agriculture was without authority to compel the payment of fees by anyone. Approximately \$40,000.00 was collected during the 1934 season through the Houston office alone, and other offices were maintained at Beaumont and Eagle Lake.

The legal responsibility regarding any of these movements is in doubt, as no Attorney General's opinion has been rendered thereon. It is the honest and conscientious belief of the Members of this Committee whose names are subscribed hereto, that all moneys collected under all of these movements were used to further the political advancement of the Commissioner of Agriculture, J. E. McDonald, and that this was an abuse of power and a misrepresentation to the producers of milk, cream, rice and baby chicks for the Commissioner of Agriculture to lend his official sanction to such movements. Certainly if these large sums of money were collected they should have been properly protected by being placed in the State

Treasury, and paid out according to law, and certainly if there is no law providing for the proper protection and disposition of said funds, it is a wilful abuse of power and authority on the part of the Commissioner of Agriculture to collect and manipulate said funds under the guise of his official duties.

It appears to this Committee, after full investigation, that these movements, one and all, are stupendous political rackets and that this Legislature should pass the necessary laws to place the future Commissioner of Agriculture in such position as to suppress all such flagrant official outrages.

CHARGE NO. 10

The lending of his official office for the use and benefit of cotton brokers, and the receiving of personal benefits therefrom.

The Commissioner of Agriculture assisted a large firm of cotton brokers by the name of Harriss & Voss, of New York City, to manipulate the cotton market by sending telegrams to the President of the United States and others. He not only sent telegrams himself, but had his friends send telegrams, pertaining to the same matters, and later was reimbursed by Harriss & Voss for all such telegrams sent by himself and his friends. In one instance alone the Commissioner of Agriculture and his friends sent telegrams costing the sum of \$116.50, and we submit herewith a copy of a letter wherein it is shown that the Commissioner of Agriculture requested Harriss & Voss to reimburse him for said wires:

"September 7, 1934.

"Mr. Robert Harriss
60 Beaver Street
New York City, New York.

"Dear Bob:

"Inclosed you will find itemized list of phone calls and wires sent asking the President to provide a fifteen cent loan on cotton.

"I am today mailing these parties my check and ask that you get your check back to me as soon as you see fit, but some of the people asked that I mail them the check at once and I have neglected doing so before now. I hope you feel that the wires did some good, and I was glad to do my part, and was disappointed

that they put the loan at twelve cents instead of fifteen.

"Any time I can do anything for you, please know that I will be glad to do it if I possibly can.

"With kindest personal regards, I am

"Sincerely your friend,

"J. E. McDONALD,

Commissioner of Agriculture.

"JEMcD/cy"

On April 16, 1934, Robert Harriss, a member of the firm of Harriss & Voss, wired the Commissioner of Agriculture as follows:

"There will be very important meeting in Washington next Monday April 23 in connection agriculture and silver stop Believe most advisable for you to be there. Please telegraph if you can arrange this. Think your expenses will be paid.

Best regards

ROBERT HARRISS."

On April 17, 1934, Commissioner J. E. McDonald, replied to the above telegram as follows:

"Retel accepting your statement that I can aid agriculture by appearing in Washington Monday 23. I am arranging to be there on that date stop My time will be limited and am asking that you arrange that I testify without delay stop Plan in advance and advise me upon arrival just what I can do to render the greatest possible service.

Appreciation and regards,

J. E. McDONALD,

Commissioner of Agriculture."

This Committee was unable to determine from the records whether or not Harriss & Voss paid for the above trip; however, it was an adopted practice for Harriss & Voss to pay the Commissioner of Agriculture's expenses on trips to Washington, as shown by the following letter, which is set forth in part:

"October 5, 1933.

"Robert Harriss
60 Beaver Street
New York City, N. Y.

"Dear Bob:

"Enclosed find statement of account for trip to Washington, which I trust you will find in order.* * *

"Your friend,

" J. E. McDONALD."

The expense account referred to in the above letter amounted to \$271.01, \$150.00 of which was wired to the Commissioner of Agriculture, and \$271.01 sent to him later.

As further evidence of this practice, we submit herewith copy of wire sent by Robert Harriss to J. E. McDonald on January 29, 1935, as follows:

"Believe important interest Texas farmers you be here Friday morning appear before Senate Agricultural Committee. Will be glad contribute one hundred dollars toward expenses farmers in this good cause. Please answer via Postal Telegraph in care Hamilton Hotel.

Regards,

"ROBERT HARRISS."

In addition to aiding the firm of Harriss & Voss, as shown above, the Commissioner of Agriculture was permitted by said firm to purchase two and three hundred bales of spot cotton without putting up any margin. This account when opened seemed to have been operated at the discretion of Harriss & Voss, as shown by telegram dated June 13, 1935, addressed to J. E. McDonald Austin, Texas, reading as follows:

"Bot one Dec. 1114.

HARRISS & VOSS."

On August 1, 1933, Harriss & Voss addressed a telegram to J. E. McDonald Austin, Texas, which reads as follows:

"Sold three Dec. 1059.

HARRISS & VOSS."

The Commissioner of Agriculture, by letting Harriss & Voss manipulate his account with them, received, from July 31, 1933, to February 2, 1935, \$2742.31 as profit. In addition to extending to the Commissioner of Agriculture the privilege of opening an account with them without putting up any margin, Harriss & Voss permitted him the further privilege of over-drawing his paper profits in his account from time to time as high as \$790.90. Commissioner McDonald expressed his appreciation to Harriss & Voss by letter, dated July 15, 1933, addressed to Mr. Robert Harriss, New York City, which reads in part as follows:

"My dear Mr. Harriss:

" * * * I certainly appreciate the consideration shown me, it has

meant a lot to me financially and I would appreciate your watching my account and keeping me fully advised. I have worked hard to put this program over and feel that I am entitled to make some real money out of the advance, and with your assistance feel that I can.

"With great appreciation and best regards, I am

"Sincerely your friend,

"J. E. McDONALD,
Commissioner of Agriculture."

As further evidence that Harriss & Voss operated this account, we set forth a letter of July 18, 1933, addressed to Mr. Robert Harriss, 60 Beaver Street, New York City, which reads, in part, as follows:

"Dear Mr. Harriss:

"Today I drew sight draft in the amount of \$500.00 on Harriss & Voss, 60 Beaver Street, New York, and of course you will debit my account with that amount. The profit in the cotton you purchased for me certainly has been a help and I appreciate it more than I can tell. * * *

"Now please keep me advised on the market, and with appreciation and regards, I am

"Sincerely your friend,

J. E. McDONALD,
Commissioner of Agriculture."

When the auditors assigned to this Committee requested Mr. McDonald to write Harriss & Voss instructing them to give to the auditors detailed information regarding any transactions the Commissioner of Agriculture might have had with them, Mr. McDonald refused, and finally compromised by giving the auditors the following letter:

"June 26, 1935.

"Harriss & Voss
New York City.

"Gentlemen:

"The State Auditor's Department of Texas is making, for the legislative committee provided for in H. C. R. No. 105, an audit of the records of the Department of Agriculture and my dealings and correspondence for the department as elected Commissioner of Agriculture.

"This is your authority and request to furnish, a duly authorized member of the State Auditor's Department, any and all information

concerning dealings and correspondence I have had with you, which relates to or concerns the State Department of Agriculture or my administration as Commissioner of Agriculture.

"You are not requested nor expected to furnish the State Auditor with any information of a personal or private character, but any courtesy or co-operation shown the Auditor, in obtaining information which concerns the State Department of Agriculture will be appreciated.

"Sincerely yours,

"J. E. McDONALD,
Commissioner of Agriculture.
"JEMcd/cy"

In addition to assisting Harriss & Voss to manipulate the cotton market, the Commissioner of Agriculture affiliated himself closely with Anderson, Clayton & Company, as shown by a letter set forth below:

"Houston, Texas, August 11, 1934.

"PERSONAL

"Mr. J. E. McDonald
Commissioner of Agriculture
Department of Agriculture
Austin, Texas

"Dear Mr. McDonald:

"Referring to my letter about a meeting here on the 18th, it now develops that I must leave town on next Monday night and will be gone about a week, so will have to put it off.

"I am in correspondence with Oscar Johnston about the situation and have told him that I want to have a talk with him and Secretary Wallace when I am next in Washington, which I expect will be about the middle of September. Would you care to go to Washington and take part in this conference?

"It would be my idea not to have anyone else present besides Secretary Wallace, Oscar Johnston, Mr. Chester Davis and you and me, and also to keep the newspapers from getting anything about it. I really think we ought to have this talk with these gentlemen before we make any other plans down South, so will ask you to keep the matter confidential for the present.

"Awaiting your reply, and with best wishes,

Sincerely yours,
(signed) W. L. CLAYTON."
"WLCAB"

Replying to this letter, Mr. McDonald wrote Mr. W. L. Clayton, on August 13, 1934, as follows:

"August 13, 1934.

"Mr. W. L. Clayton
Cotton Exchange Building
Houston, Texas

"My dear Mr. Clayton:

"I have your letter of August 11th and note that it will be inconvenient to have the formerly proposed meeting next Saturday, August 18th.

"I agree with you fully that the first contacts should be in Washington with Secretary Wallace and his assistants. I think this meeting should take place at the earliest possible moment because from the Press I would judge that they are now giving consideration to next year's program. I would be glad to go to Washington with you and trust this trip may be arranged around the first of September rather than the 15th, though if it will be inconvenient for you to go at that date, we will go later.

"I shall give no publicity to our proposal to contact the Washington authorities but shall continue to acquaint the people of Texas with the principles of the Clair Plan, pointing out to them that any permanent plan for agriculture must embody the three vitally essential features:

1. It must be equitable and benefit every group of citizens as much as it does the farmer himself;
2. It must leave with the farmer the broadest discretion possible as to what he plants on his own land;
3. It must enable us to maintain, further develop and extend our foreign markets.

"Now please remember that I consider the adoption of this plan by the Federal Government the most imperative need of the agricultural people, and that I am anxious to get it under way at the earliest possible moment and I am expecting you to arrange the meeting in Washington at the earliest date possible.

"With appreciation and regards, I am

Your friend,

J. E. McDONALD,
Commissioner of Agriculture."

"JEMcD/HM

On August 25, 1934, Mr. Lamar Flemming, of Anderson, Clayton & Company, wrote Mr. J. E. McDonald, Commissioner of Agriculture, as follows:

"Houston, Texas, August 25, 1934.

"Mr. J. E. McDonald
Commissioner of Agriculture
Department of Agriculture
Austin, Texas

"Dear Mr. McDonald:

"In your letter of yesterday, you thank my bosses and me for our support of you and your administration.

"For my part, I am for you partly because you know your job, but mostly because I can see plainly that you are in it sincerely and with a profound conception of duty, and don't take it as a racket like so many of the people we could both name. I just like to see in public office people with your idea of duty.

Sincerely yours,

(signed) Lamar Flemming.

"LF, Jr./ab"

Mr. McDonald testified before this Committee that he was opposed to the Bankhead Law as now administered and that he was advocating the Clair-McDonald plan of cotton control. The sworn testimony of Mr. McDonald shows that Mr. McDonald has become so deeply involved with Anderson, Clayton & Company as to state under oath as follows:

"Q. You think, then, that Mr. Clayton, of Anderson, Clayton & Company, has the good of the southern cotton farmer at heart, do you, Mr. McDonald?

"A. There isn't a question in my mind about it. Mr. Chairman, if I thought any man, Mr. Clayton, or any other man, didn't have the interest of the southern cotton farmer at heart he certainly wouldn't get any of my time."

It is evident and conclusive to the Members of the Committee whose names are subscribed hereto that the Commissioner of Agriculture has used the influence of his office to assist Harriss & Voss, and Anderson, Clayton & Company, to manipulate the cotton market solely for the good of Harriss & Voss, Anderson, Clayton & Company and the personal benefits accruing to J. E. McDonald.

CHARGE NO. 11

Wilful destruction of public records and the countenancing of such action on the part of his employees.

During the course of this investigation the two auditors assigned to this Committee, accompanied by the Chairman of the Committee, interviewed the Commissioner of Agriculture, the Chairman of the Committee requesting Commissioner McDonald to permit the auditors to go through the files of the Department of Agriculture. The Commissioner of Agriculture consented to this procedure, but when the auditors started through the files in his front office, the Commissioner requested that they wait until he secured advice from the Attorney General. After a conference with the Attorney General, Mr. McDonald consented to the auditors going through the files, and the auditors began work. After the Chairman had left and while the auditors were at work, Mr. McDonald instructed the auditors to not remove any letters from the files for any purpose whatever.

When the auditors began reading the file of Harriss & Voss, Mr. McDonald took that file away from the auditors on the grounds that it was personal and not a public record. Later that night the two auditors, the Chairman of the Committee, and two Texas Rangers observed Mr. McDonald and his secretary, Mrs. Cora Young, looting the files in Mr. McDonald's front office and destroying the contents thereof, whereupon the Chairman of this Committee, the auditors and the two Texas Rangers went in and took possession of said files. It was impossible for the members whose names are subscribed hereto to determine to what extent these files were looted. Mr. McDonald resorted to the looting of his files after many statements to this Committee that he was willing and anxious to render whatever service and assistance possible in order that this Committee might secure the facts.

In addition to the destruction of these files, Mr. McDonald failed to produce any records with reference to the milk codes, and any and all information secured by this Committee was literally dug out with a pick and shovel.

At the last meeting of the Committee the Honorable Leonard Westfall

reversed his position for some reason best known to himself, and joined the Honorable Pat Dwyer and the Honorable R. H. Good in giving to the press the statement completely exonerating Mr. McDonald of any and all charges, even though not all the testimony and evidence had been received and in face of the fact that additional witnesses were to be heard, and in face of the further fact that no formal meeting of the Committee had been had authorizing such a statement.

CONCLUSION AND RECOMMENDATION

1. We, the Members signing this Minority Report, neither being attorneys, request of this Legislature that we be authorized and empowered to employ suitable legal counsel at a reasonable compensation, to be paid out of the Contingent Expense Fund of the House, said counsel to arrange and compile evidence presented against J. E. McDonald, Commissioner of Agriculture; prepare and present to this Legislature Articles of Impeachment for the removal of said J. E. McDonald, Commissioner of Agriculture; and to prosecute to conclusion impeachment proceedings to be instituted by virtue of said Articles of Impeachment.

2. We, the Members signing this Report, further recommend that Articles of Impeachment be preferred at once against J. E. McDonald, Commissioner of Agriculture, in conformity with the findings hereinabove made, and that impeachment proceedings be instituted for the purpose of removing from office said public official, J. E. McDonald, Commissioner of Agriculture of the State of Texas.

Respectfully submitted:

E. E. HUNTER,
Chairman.
C. C. CANON,
Member.

BILL RECOMMITTED

Mr. Gibson moved that House Bill No. 42, be recommitted to the Committee on State Affairs, with instructions to report on old age pension bill to the House not later than Monday, September 30, without the tax provisions.

Mr. Rogers moved that the House recess to 2:00 o'clock p. m., today.

The motion was lost.

Question recurring on the motion by Mr. Gibson, yeas and nays were demanded.

The motion prevailed by the following vote:

Yeas—77

Adamson	Jackson
Adkins	Jefferson
Alexander	Jones of Atascosa
Bergman	King
Bradford	Knetsch
Broyles	Lanning
Burton	Latham
Butler of Karnes	Mauritz
Caldwell	McCalla
Canon	McFarland
Celaya	McKee
Clayton	McKinney
Collins	Moffett
Colquitt	Morrison
Colson	Morse
Cooper	Newton
Cowley	Nicholson
Davis	Patterson
Dickison	Petsch
Dunagan	Pope
Dunlap of Hays	Quinn
Duvall	Riddle
Dwyer	Rogers
Fisher	Russell
Frazer	Scarborough
Fuchs	Smith
Gibson	Stanfield
Gray	Steward
Hankamer	Stinson
Hanna	Tarwater
Harris of Archer	Tennyson
Harris of Dallas	Thornton
Hartzog	Venable
Hill	Waggoner
Hodges	Walker
Holland	Wood of Harrison
Hoskins	Worley
Hunter	Young
Hyder	

Nays—61

Aikin	Fain
Alsup	Farmer
Atchison	Ford
Bradbury	Fox
Butler of Brazos	Glass
Cagle	Good
Calvert	Graves
Craddock	Greathouse
Crossley	Hardin
Daniel	Head
Davison of Fisher	Herzik
Davison	Hofheinz
of Eastland	Howard
Dunlap of Kleberg	Huddleston
England	Hunt

James	Reed of Bowie
Jones of Falls	Reed of Dallas
Jones of Shelby	Roach of Hunt
Jones of Wise	Roane
Keefe	Roark
Leath	Roberts
Lemens	Rutta
Lindsey	Sessions
Lucas	Settle
McConnell	Shofner
Moore	Stovall
Morris	Tillery
Olsen	Wells
Padgett	Westfall
Palmer	Wood of Montague
Payne	Youngblood

Absent

Lange	Reader
Leonard	Roach of Angelina
Luker	

Absent—Excused

Ash	Fitzwater
Beck	Lotief
Bourne	Spears

Mr. Calvert moved to reconsider the vote by which House Bill No. 42 was recommitted to the Committee on State Affairs, and to table the motion to reconsider.

Question recurring on the motion to table, yeas and nays were demanded.

The motion to table prevailed by the following vote:

Yeas—96

Adamson	Dwyer
Alexander	England
Alsup	Fisher
Bergman	Fox
Bradford	Frazer
Broyles	Gibson
Burton	Gray
Butler of Karnes	Hankamer
Caldwell	Harris of Archer
Canon	Harris of Dallas
Celaya	Head
Clayton	Herzik
Collins	Hill
Colquitt	Hodges
Colson	Holland
Cooper	Hoskins
Cowley	Howard
Craddock	Hunt
Crossley	Hunter
Davis	Hyder
Davison of Fisher	Jackson
Dickison	Jefferson
Dunagan	Jones of Atascosa
Dunlap of Hays	Jones of Shelby
Duvall	King

Knetsch	Quinn
Lange	Riddle
Lanning	Roberts
Latham	Rogers
Leath	Russell
Luker	Scarborough
Mauritz	Sessions
McCalla	Settle
McConnell	Smith
McFarland	Stanfield
McKee	Steward
McKinney	Stinson
Moffett	Stovall
Moore	Tarwater
Morrison	Tennyson
Morse	Thornton
Newton	Venable
Nicholson	Waggoner
Olsen	Walker
Padgett	Westfall
Patterson	Wood of Harrison
Petsch	Worley
Pope	Young

Nays—39

Aikin	Jones of Wise
Atchison	Keefe
Bradbury	Lemens
Butler of Brazos	Lindsey
Cagle	Lucas
Calvert	Morris
Daniel	Palmer
Fain	Payne
Farmer	Reed of Bowie
Fuchs	Reed of Dallas
Glass	Roach of Hunt
Good	Roane
Graves	Roark
Greathouse	Rutta
Hardin	Shofner
Hartzog	Tillery
Hofheinz	Wells
Huddleston	Wood of Montague
James	Youngblood
Jones of Falls	

Absent

Adkins	Hanna
Davisson	Leonard
of Eastland	Reader
Dunlap of Kleberg	Roach of Angelina
Ford	

Absent—Excused

Ash	Fitzwater
Beck	Lotief
Bourne	Spears

RELATIVE TO HEARINGS OF
CERTAIN INVESTIGATING
COMMITTEE

Mr. Petsch offered the following resolution:

Whereas, The House of Representatives did heretofore, during this pres-

ent Special Session pass a resolution authorizing an investigation by three members of the Legislature of the Relief situation in Tarrant County; and

Whereas, Said investigation, as the same was conducted in the City of Fort Worth reflects upon the dignity, fairness, and intelligence of the Legislature of the State of Texas; and

Whereas, The manner of conducting the investigation on the part of one of the members of said committee has further been conducive to inciting discontent and riot on the part of misinformed and misled citizens of Texas; and

Whereas, No further necessity exists for continuing a hearing in the City of Fort Worth or any other place than in the City of Austin; therefore, be it

Resolved, That said committee is herewith instructed not to conduct any further investigation outside of the City of Austin, nor to hereafter interrogate any witnesses other than the State Board of Control, Texas Relief Commission and their employees.

PETSCH,
HANKAMER,
STINSON,
ALEXANDER,
BERGMAN.

The resolution was read second time.

Question—Shall the resolution be adopted?

RECESS

On motion of Mr. Head, the House at 12:30 o'clock p. m., took recess to 2:00 o'clock p. m., today

AFTERNOON SESSION

The House met at 2:00 o'clock p. m., and was called to order by the Speaker.

BILL ORDERED NOT PRINTED

(By unanimous consent)

On motion of Mr. Hankamer, Senate Bill No. 18 was ordered not printed.

RELATIVE TO HEARINGS OF CER-
TAIN INVESTIGATING
COMMITTEE

The House resumed consideration of pending business, same being resolution by Mr. Petsch and others in regard to hearings of committee here-

tofore appointed to investigate the relief situation in Tarrant County

The resolution having been read second time on this morning.

Mr. Farmer raised a point of order on further consideration of the resolution on the ground that it is not in order at this time to instruct the committee.

The Speaker overruled the point of order.

Mr. Fox offered the following amendment to the resolution:

Amend the resolution by striking out paragraphs 2 and 3, of said resolution.

The amendment was adopted.

Mr. Roark moved the previous question on the adoption of the resolution, and the main question was ordered.

Question recurring on the resolution, it was lost.

BILL RECOMMITTED

On motion of Mr. Duvall, House Bill No. 7 was recommitted to the Committee on State Affairs.

RELATIVE TO CERTAIN ELECTRICAL EQUIPMENT

Mr. Morse offered the following resolution:

Whereas, The public address system in the House was inadequate and obsolete and was replaced at the beginning of this session; and,

Whereas, This equipment was of no value as a trade-in on the new system; and,

Whereas, The parts of this equipment are now in storage in a room in the basement of the Capitol building and will have to be moved along with other scrap materials within a short time in order to make room for a new electrical shop; and,

Whereas, Much of this equipment can be used for experimental and research purposes by the University of Texas; now, therefore, be it

Resolved, That the Board of Control be, and is hereby, authorized to turn this equipment over to the University of Texas to be used by the Department of Electrical Engineering for said purposes.

The resolution was read second time, and was adopted.

GRANTING A. G. HUTTON PERMISSION TO SUE THE STATE

The Speaker laid before the House, for consideration at this time, House Concurrent Resolution No. 4, by Mr. Atchison, Granting A. G. Hutton permission to sue the State.

The resolution having heretofore been read second time and referred to the Committee on State Affairs.

The Committee on State Affairs having recommended the adoption of the resolution.

Question recurring on the resolution, it was adopted.

GRANTING W. M. ROUSSEAU PERMISSION TO SUE THE STATE

The Speaker laid before the House, for consideration at this time, House Concurrent Resolution No. 5, by Mr. Davis, Granting W. M. Rousseau permission to sue the State.

The resolution having heretofore been read second time and referred to the committee on State Affairs.

The Committee on State Affairs having recommended the adoption of the resolution.

Mr. Daniel offered the following amendment to the resolution:

Amend the resolution by changing venue to "Travis" county.

The amendment was lost.

Question recurring on the resolution, it was adopted.

HOUSE BILL NO. 33 ON SECOND READING

The Speaker laid before the House, on its second reading and passage to engrossment,

H. B. No. 33, A bill to be entitled "An Act defining a pool and billiard table and providing for the payment of State, county and city occupation taxes, by any person operating a pool or billiard table; providing that no merchandise shall be sold, given away, or exchanged in any enclosure wherein a pool or billiard table is operated or exhibited, and prohibiting gaming therein; providing the issuance of injunctions for the enforcement of its provisions; etc., and declaring an emergency."

The bill was read second time.

On motion of Mr. Alexander, House Bill No. 33 was recommitted to the Committee on Revenue and Taxation.

HOUSE BILL NO. 14 ON SECOND
READING

On motion of Mr. Morse, the Twenty-four-hour House Rule, relative to the consideration of printed bills, was suspended at this time for the purpose of considering House Bill No. 14.

The Speaker laid before the House, on its second reading and passage to engrossment,

H. B. No. 14, A bill to be entitled "An Act to amend Section 9 of Chapter 116, General Laws of the State of Texas, passed by the Forty-third Legislature, relating to the manufacture and sale of beer in Texas, so as to make it unlawful for any manufacturer or distributor of beer, directly or indirectly or through a subsidiary or affiliate, and agent or any employee, or by any officer, director or firm member, to own any interest in premises or the license upon or under which beer is sold for consumption on the premises; etc., and declaring an emergency."

The bill was read second time.

On motion of Mr. McConnell, further consideration of House Bill No. 14 was postponed until next Tuesday, October 1.

HOUSE BILL NO. 53 ON SECOND
READING

On motion of Mr. Reed of Dallas, the Twenty-four-hour House Rule, relative to the consideration of printed bills, was suspended at this time for the purpose of considering House Bill No. 53.

The Speaker laid before the House, on its second reading and passage to engrossment,

H. B. No. 53, A bill to be entitled "An Act amending Chapter 354, Acts of the Regular Session of the Forty-fourth Legislature, and levying an annual occupation tax upon coin operated vending machines; defining "coin operated vending machines," defining the term "owner," as used herein; providing for the collection of said tax by the Comptroller of Public Accounts of this State; etc., and declaring an emergency."

The bill was read second time.

Mr. Reed of Dallas, offered the following committee amendment to the bill:

Amend House Bill No. 53, by reducing \$1.50 to \$0.75 in third paragraph of Section 3.

RUSSELL

The amendment was adopted.

Mr. Wood of Harrison offered the following amendment to the bill.

Amend House Bill No. 53, page 2, by adding the following words after the words "candy machine" in line 12, "peanut machines."

The amendment was adopted.

Mr. Jones of Wise offered the following amendment to the bill:

Amend House Bill No. 53 by adding immediately after Section 7, another section to be known as Section 7-a and which is to read as follows:

"Any person operating any marble machine as a gambling device, shall upon conviction be fined not less than \$1.00 nor more than \$100.00."

JONES of Wise,
PETSCH

Pending consideration of the amendment, Mr. Aikin occupied the Chair temporarily.

(Speaker in the Chair.)

Question—Shall the amendment by Mr. Jones of Wise be adopted?

TO EXTEND USE OF THE HALL
OF THE HOUSE

Mr. Youngblood offered the following resolution:

Whereas, The Hall of the House of Representatives will not be used on Tuesday night, Oct. 1, 1935; and,

Whereas, The Rev. J. Frank Norris, a prominent citizen of the City of Fort Worth, and recognized universally as an outstanding minister and orator, is in the State of Texas at this time; and,

Whereas, He has requested the use of the Hall of the House of Representatives; now, therefore, be it

Resolved, That he be tendered the use of the Hall of the House of Representatives Tuesday night, Oct. 1, 1935, and is invited to deliver a non-political patriotic address at that time.

Signed—Youngblood, Smith, Craddock, Hunter, Newton, Hanna, Duvall, Dunagan, Glass, Scarborough, Bourne, Mauritz, Tillery, England, Alsup, Huddleston, Hodges, Hill, Palmer, Pope, Frazer, Leath, Westfall, Great-house, Stovall, McConnell, James,

Nicholson, Steward, Rogers, Davison of Fisher, Fain, Davis, Padgett, Ford, McKinney, Riddle, Patterson, Keefe, Roach of Angelina, Hunt, Bradbury, Olsen, Celaya, Walker, Butler of Karnes, Jones of Shelby, Hoskins, Farmer, Gray, Fisher, Fox of Williamson, Venable, Bradford, Worley, Roach of Hunt, Rutta, Wood of Montague, Dunlap of Hays, Jefferson, Roberts, Morris, Lemens, Canon, Roark, Bergman, Calvert, Payne, Hartzog, King, Davisson of Eastland, Latham, Stanfield, Spears, Hardin, Dickison, Duvall, Herzik.

The resolution was read second time.

On motion of Mr. Hofheinz, the resolution was referred to the Committee on Liquor Traffic.

PROVIDING FOR ADDITIONAL MEMBERS ON CERTAIN COMMITTEE

Mr. Lanning offered the following resolution:

Whereas, There has been misunderstanding among the Investigating Committee to investigate the Relief Organization of Tarrant County; therefore, be it

Resolved, That the Speaker of the House of Representatives appoint two additional members, and that the committee shall choose its own chairman.

The resolution was read second time.

Mr. Bradbury offered the following amendment to the resolution:

Amend the resolution by striking out the last line of the resolution.

Mr. Smith moved to table the amendment by Mr. Bradbury.

The motion to table was lost.

Question recurring on the amendment by Mr. Bradbury, it was lost.

Question then recurring on the resolution, it was adopted.

In accordance with the above action, the Speaker announced the appointment of the following additional members of the committee:

Mr. Butler of Brazos and Mr. Davison of Fisher.

ADDRESS BY HON. J. H. (CYCLONE) DAVIS

Mr. Hunt offered the following resolution:

Whereas, There is in our midst a very distinguished gentleman and eminent statesman who is renowned

throughout the confines of the State and of the United States as well; and

Whereas, It is the desire of many of the members of this House to be entertained for a period of a few minutes by this distinguished gentleman; now, therefore, be it

Resolved by the House of Representatives, That the Hon. J. H. (Cyclone) Davis of Sulphur Springs, Texas, be invited to address the House for a few minutes.

HUNT,
GOOD,
CROSSLEY,
DAVIS,
REED of Bowie,
LEMENS,
BRADBURY.

The resolution was read second time, and was adopted.

In accordance with the above action, Hon. J. H. Davis was escorted to a seat on the Speakers stand.

Speaker Stevenson then presented Hon. J. W. Hunt, who in turn introduced Hon. J. H. Davis.

Mr. Davis then addressed the House.

ADJOURNMENT

Mr. Keefe moved that the House adjourn until 9:30 o'clock a. m., next Monday.

Mr. McConnell moved that the House adjourn until 10:00 o'clock a. m., tomorrow.

Mr. Pope moved that the House recess to 8:00 o'clock p. m., today.

Question recurring on the motion by Mr. Keefe, it prevailed and the House, accordingly, at 5:50 o'clock p. m., adjourned until 9:30 o'clock a. m., next Monday.

APPENDIX

STANDING COMMITTEE REPORTS

The Committee on Revenue and Taxation filed favorable reports on bills as follows: House Bills Nos. 21 and 60; Senate Bill No. 18.

The Committee on Revenue and Taxation filed an adverse report on House Bill No. 22.